

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 587 – SB 593

April 18, 2016

SUMMARY OF ORIGINAL BILL: Creates an enhancement factor for robbery and aggravated robbery. Allows a judge to enhance a sentence for robbery or aggravated robbery if the offense occurred on the premises of a licensed retail pharmacy and was committed for the purpose of obtaining a controlled substance.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$107,100 Highest Projected Cost of the Next 10
Years/Incarceration*

SUMMARY OF AMENDMENT (016247): Changes the effective date from July 1, 2015 to January 1, 2017.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures –
\$60,900/Incarceration*/FY16-17
\$121,700/Incarceration*/FY17-18 and Subsequent Years

Assumptions for the bill as amended:

- The proposed legislation establishes an enhancement factor for robbery and aggravated robbery offenses if the offense occurred on the premises of a licensed retail pharmacist and was committed for the purpose of obtaining a controlled substance.
- Statistics from the Tennessee Bureau of Investigation's Crime in Tennessee Reports (http://www.tbi.state.tn.us/tn_crime_stats/stats_analys.shtml) indicate an average of 1.28 percent of robberies in Tennessee occur within a medical facility.
- Statistics from the Department of Correction (DOC) show that there has been an average of 637.1 admissions for Class B felony robbery-related offenses each year for the past 10 years and an average of 619.7 admissions for Class C felony robbery-related offenses each year for the past 10 years. The proposed legislation could result in eight robbery-related Class B felony sentences ($637.1 \times 0.0128 = 8$) and eight robbery-related Class C felony sentences ($619.7 \times 0.0128 = 8$) each year being enhanced.

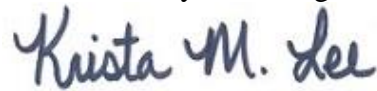
- Sentencing enhancements could apply to plea bargains, but they are not applied in common practice. The bill as amended will not affect admissions that result from plea bargains.
- It is assumed that four of the eight Class B felony sentences and five of the eight Class C felony sentences will result from plea bargains. It is estimated the bill as amended will result in four Class B and three Class C felony sentences being enhanced one classification level each year.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- According to the DOC, the average operating cost per offender per day for calendar year 2016 is \$67.73.
- The average time served for a Class C felony is 3.22 years. It is assumed that applying the enhancement factor will result in a 25 percent increase in the time served, or 0.81 years ($3.22 \text{ years} \times .25$).
- According to the DOC, 33.3 percent of offenders will re-offend within one year of their release. A recidivism discount of 33.3 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill as amended. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ($3 \text{ offenders} \times .333 = 1 \text{ Class C offender}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two Class C offenders [$3 \text{ offenders} - 1 \text{ (recidivism discount)}$] serving an additional 0.81 years (295.85 days) for a total of \$20,037.92 ($\$67.73 \times 295.85 \text{ days}$). The cost for two offenders is \$40,075.84 ($\$20,037.92 \times 2$).
- The average time served for a Class B felony is 6.59 years. It is assumed that applying the enhancement factor will result in a 25 percent increase in the time served, or 1.65 years ($6.59 \text{ years} \times .25$).
- According to the DOC, 43.7 percent of offenders will re-offend within two years of their release. A recidivism discount of 43.7 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill as amended. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ($4 \text{ offenders} \times .437 = 2 \text{ Class B offenders}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two Class B offenders [$4 \text{ offenders} - 2 \text{ (recidivism discount)}$] serving an additional 1.65 years (602.66 days) for a total of \$40,818.16 ($\$67.73 \times 602.66 \text{ days}$). The cost for two offenders is \$81,636.32 ($\$40,818.16 \times 2$).
- The total increase in state incarceration costs is \$121,712.16 ($\$40,075.84 + \$81,636.32$).
- The effective date of the bill as amended is January 1, 2017. The increase in state incarceration costs for FY16-17 is estimated to be \$60,856.08 ($\$121,712.16 / 2$). The recurring increase in state incarceration costs for FY17-18 and subsequent years is estimated to be \$121,712.16.

- The bill as amended does not create any new felony cases; it impacts sentencing. Though it will impact sentencing proceedings in criminal cases, it is assumed that the courts, district attorneys, and public defenders can accommodate any impact within their existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm